

Agenda

Item #1



STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS
AND ELECTION PRACTICES
135 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0135

Minutes of the September 9, 2010, Meeting of the
Commission on Governmental Ethics and Election Practices
Held at the Commission Office, 45 Memorial Circle,
2nd Floor, Augusta, Maine

Present: Walter F. McKee, Esq., Chair; André G. Duchette, Esq.; Hon. Edward M. Youngblood; Margaret E. Matheson, Esq., Michael T. Healy, Esq. Staff: Executive Director Jonathan Wayne; Phyllis Gardiner, Counsel.

1. Maine Clean Election Act Appeal by Douglas T. Stone

Douglas T. Stone is a replacement candidate for the Maine House of Representatives, District 73. On August 27, 2010, the staff of the Commission denied his application for Maine Clean Election Act funding, because he was late in submitting his qualifying materials. Mr. Stone submitted them approximately 50 - 60 minutes after the deadline of 5:00 p.m. on Wednesday, August 25, 2010, the last day of the qualifying period for replacement candidates. The candidate has appealed the staff's denial. The Commission held a formal hearing to consider Mr. Stone's appeal.

After receiving testimony and legal argument, the Commission members expressed that under 21-A M.R.S.A. § 1125(4) and Chapter 3, § 3(1) of the Commission's rules, the Commission does not have the legal authority to grant the appeal or to extend the deadline for submitting qualifying contributions after 5:00 p.m. on the last day of the qualifying period. Commissioners Matheson and Youngblood stated that Mr. Stone had not met the burden of proving that the staff determination was in error as a matter of law or was based on factual error. Mr. Healy stated that he would be voting to uphold the staff determination because the Commission does not have the authority to grant the relief requested.

The Commission determined by a vote of five to zero (5-0) to deny Mr. Stone's appeal and to uphold the staff determination.

Other Business

Mr. Wayne said staff has become aware of and has reviewed a website called the Cutler Files which has information that the staff believes expressly advocates for the defeat of Eliot Cutler's gubernatorial campaign. He said the website does not have the required disclosure stating who paid for the website and that the disclosure is important in assisting voters to evaluate the content of the website. Mr. Wayne said the website also lacks a required disclosure of who authorized the website and whether it was authorized by any candidate. He said there is sufficient evidence that there is a legal violation and there could be other reporting requirements depending on how much the website cost. He said staff requests authorization to investigate this issue further. He said the staff also recently received a written request for investigation from the Cutler campaign's counsel. Mr. Wayne said the investigation would involve interviews and that the rules authorize the Commission to issue subpoenas for witness testimony, if necessary. He said the investigation may also involve the Attorney General's Office.

Mr. McKee said that he would support the investigation and that the staff could come back to the Commission if further assistance is needed.

Mr. Healy, noting there was enough preliminary evidence to justify, moved to authorize the staff to investigate this matter fully without delay. Mr. Duchette seconded.

Motion passed unanimously (5-0).

Meeting adjourned at 9:30 a.m.

Respectfully submitted,

Jonathan Wayne, Executive Director



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Minutes of the September 30, 2010, Meeting of the
Commission on Governmental Ethics and Election Practices
Held at the Commission Office, 45 Memorial Circle,
2nd Floor, Augusta, Maine

Present: Walter F. McKee, Esq., Chair; André G. Duchette, Esq.; Hon. Edward M. Youngblood; Margaret E. Matheson, Esq., Michael T. Healy, Esq. Staff: Executive Director Jonathan Wayne; Phyllis Gardiner, Counsel.

At 9:00 a.m., Chair Walter McKee convened the meeting.

The Commission considered the following items:

Agenda Item #1. Request for Waiver of Late-Filing Penalty/Maine Center for Economic Policy

Mr. Wayne explained that the Maine Center for Economic Policy was required to file monthly reports during 2010. The organization was late in filing the report due July 15, 2010, because its office manager was on vacation. The preliminary penalty amount is \$100. The organization has requested a waiver of the penalty. The staff recommends denying the waiver request and assessing the \$100 penalty.

Mr. Youngblood moved that the Commission adopt the staff's recommendation and assess \$100 penalty. Ms. Matheson seconded.

Motion passed unanimously (5-0).

Agenda Item #2. Complaint against Aroostook County Sheriff

Mr. Wayne said on September 9, 2010, the Commission received a complaint from the Aroostook County Republican Committee claiming that the incumbent sheriff, James Madore, had improperly used public property, resources, and employees to promote his re-election. He explained that the complaint was also filed with the District Attorney's Office and three County Commissioners. He said after review, the

Commission staff and counsel believe that the matter is not within the Commission's jurisdiction. No action is required by the Commissioners.

Mr. Healy asked whether the candidates running for sheriff are required to report their contributions and expenditures with the Commission and also whether the use of public property for campaign purposes should be reported as a contribution or expenditure.

Mr. Wayne said these candidates are required to file campaign finance reports with the Commission and that a candidate's use of public resources could be viewed as a contribution and should be reported.

Mr. McKee said the complaint received was a general complaint and not one that was based on inaccurate reporting, which would bring it into the Commission's jurisdiction.

Agenda Item #3. Audit Presentation by Vincent W. Dinan

The Commission's auditor, Vincent W. Dinan, presented an overview of the audits of 2010 Maine Clean Election Act candidates and reviewed the first four audits completed. There were three legislative candidates with no exceptions found: Charles E. Bragdon, House District 120; Robert K. Emrich, House District 25; and Peter M. Sheff, House District 45.

Mr. Dinan also reviewed the audit finding of gubernatorial candidate Peter Mills. There was a finding of one minor violation regarding documentation to support payments over \$500 to individuals for campaign work, but he recommended no penalty be assessed because the requirement is new this year. He also said that the Commission's guidelines for this requirement need to be defined better and more candidate education would be beneficial. He said overall the Mills campaign was very organized and well documented.

Mr. Dinan reviewed a concern he has with the issue of prepaying media brokers without any written contractual obligation between the parties. He said it is not good practice to disburse money without some control as to how the money is spent. He said neither the law nor the Commission rules establish any such controls. He said the Commission may want to consider this matter during the next rule-making.

Mr. McKee agreed with Mr. Dinan's concern over large sums of money being spent without some form of contractual agreement.

Mr. Healy said the media broker is the agent for the campaign and the money cannot be spent on anything other than media time. He said he believes the money goes into an escrow account and has to be disbursed only for the intended purpose of funds.

Agenda Item #4. Scheduling Meetings during October 2010

The Commission decided to set meetings as necessary or as directed by the Chair during the final weeks before the November 2 general election.

Agenda Item #5. Proposed Procedures for Considering Statute and Rule Changes for 2011

Mr. Wayne reviewed the past practice for developing statutory changes to propose to the Legislature after a general election. He said due to enforcement matters and requests for advice during an election year, the staff compiles a list of issues that may need to be addressed after the election.

Mr. McKee said the past practice has worked fine and the Commission will go forward as usual.

Agenda Item #6. Update on Investigation of Cutler Files Website

Mr. Wayne explained that at the Commission's meeting on September 9, 2010, the staff was authorized to investigate the Cutler Files website (Cutler Files) and has begun the investigation. He said staff has spoken to a witness who has knowledge of the website; however, the witness has declined to disclose information about who is responsible for the website to the Commission. The Chair issued a subpoena for that witness. However, just prior to serving the subpoena, the Cutler Files raised First Amendment objections to the investigation. Through legal counsel, the Cutler Files will present legal arguments to the Commission to discontinue the investigation. Mr. Wayne said the staff is in favor of going forward with the investigation recognizing that this could lead to litigation.

Daniel I. Billings, counsel for Cutler Files, said this was an unusual proceeding in that the party being investigated had no opportunity to address the Commission prior to the investigation being authorized. However, he acknowledged that matters that come before the Commission in the 60 days before the

Commission need to be addressed quickly. He explained the website was created a month ago with less than \$100 spent to-date. He said the total expenditure amount anticipated to be spent through the election is \$30.36. He said the promotion of the site has been through the media or word of mouth, noting that the number of hits on the site increased dramatically after the announcement of the Commission's investigation. He said the blog is not owned, controlled or operated by any political party, political committee, candidate or candidate's immediate family. He suggested the Commission contact one of the political entities that fall under the Commission's jurisdiction to determine whether any of their employees or agents are involved with this site.

Mr. Billings stated the U. S. Supreme Court has recognized that anonymous speech is protected by the First Amendment referring to McIntyre v. Ohio Elections Commission as one of the primary cases confirming the right to anonymous political speech. He said in that case the United States Supreme Court considered and struck down a disclosure statute similar to Maine's. The statute applied to all political speech and did not have any monetary thresholds that triggered applicability. The statutes that have been upheld by courts have thresholds or have limited applicability to candidates and political committees but not individuals. He said Maine's statute makes anonymous political speech illegal but is not narrowly tailored to an important governmental interests.

Mr. Healy asked if the McIntyre issue involved false statements.

Mr. Billings said it did not. The Court said if Ohio had a statute that was narrowly tailored to deal with false statements then that would likely be upheld.

Mr. Healy asked Mr. Billings if the Commission were to apply the statute only in cases where there was a demonstration of false statements in an anonymous communication, would that solve the First Amendment concern for him?

Mr. Billings said that it would not because that was not how the statute was written.

Mr. Healy asked whether enforcing the statute in this manner would recognize the First Amendment issue.

Mr. Billings said there is nothing in Maine statute that gives the Commission authority to pass judgment on the content of political communications. He said the Commission's jurisdiction relates only to campaign finance.

Mr. Healy said ordinarily a person would have to disclose their identity; however, this person wants to preserve their anonymity. He asked whether the Commission could decide, in a case where a person is anonymous and has a First Amendment right, and the communication is not false, not to enforce the statute. However, he expressed concern that someone could put out false material and would not have to disclose their identity to the public. The public has a right to know who is putting out false materials, he said. Mr. Healy acknowledged that he was not saying and does not know if the material on the website is false or not.

Mr. Billings said determining what is false and what is true in a political campaign is difficult. He said the Commission does not have the right or the resources to decide what campaign communications are false or true. He said if Mr. Cutler feels he has been defamed, he has access to the courts and could find out who is behind the website through those legal channels. He said Mr. Cutler should not be asking a government agency to investigate matters of political speech.

Mr. Healy said he agreed that the website is advocating political opinion; however, if there are false statements of fact, that is another matter. He said false statements of facts should be easily distinguishable from political opinions.

Mr. McKee said the Commission's position should be to presume the constitutionality of the statute and apply it to that matter at hand. Mr. McKee said it would be up to the court to stop the investigation if the statute was determined to be unconstitutional.

Mr. Billings said the Commission should uphold the statute as well as the Constitution. He said the underlying government interest is preventing corruption or the appearance of corruption. He said the "informational interest" to which the courts refer has to be put in the context of campaign spending and who is spending money to influence the election. He said the Commission could interpret the statute such that it would not apply to de minimis expenditures. He also said this Commission could interpret the statute in the same fashion as the FEC interprets the federal disclaimer statute, which is somewhat different

than Maine's but which refers to the federal definition of expenditure, including a media exception which is the same as in Maine law.

Mr. McKee asked whether he was proposing that the media exception be applied to the Cutler Files.

Mr. Billings said that he was proposing that. He said that if the FEC was considering this issue in a federal campaign, it would apply the media exception to the Cutler Files.

Ms. Matheson said that the FEC guidelines regarding bloggers were not entirely clear cut and that it appeared that the media exception may not apply to all bloggers.

Mr. Billings said that he believed the exception might not apply to a blogger who was paid by a party committee, for example. Mr. Billings said he feels the FEC has recognized the role of the traditional media played in elections is being played out by online media outlets, including blogs, which should be entitled to the same exception as traditional media outlets. He said the policy behind this was that a de minimis expenditure to write and post a blog should not result in the activity being regulated by the FEC.

Mr. Healy said he would not call this blog a newspaper or magazine. He asked if this is a periodical publication.

Mr. Billings said it could be considered a periodical. It has been updated periodically.

Mr. Healy said Mr. Billings made a factual conclusion that the blog was not a campaign communication but citizen journalism which Mr. Billings has the burden to prove. Mr. Healy said he believed it was not journalism but a campaign communication, intended to influence Mr. Cutler's campaign.

Mr. Billings said there were articles in the paper every day, usually editorials, that are unsigned.

Mr. Healy stated the editorial board is identified so the reader knows who is responsible.

Mr. Billings said that his client would be satisfied if the Commission were to determine that the expenditure was de minimis and that disclosure statement was not required. However, he thought that there is a larger issue in general regarding blogs and whether they should be required to have a disclosure statement on them, if the cost was not de minimis.

Mr. Duchette said it appears Mr. Billings would not have any objections to an investigation in to the matter with regard to determining whether this website was controlled by a party, candidate, etc. He said the concern is that an anonymous person would be difficult to determine whether they fell into one of those categories.

Mr. Billings said that is a legitimate concern. However, if an investigation is to be opened, he said there needs to be evidence that leads the Commission to believe it was controlled by a candidate, candidate's family member or political party or committee. He said if there is a process that would protect his client's identity he would be cooperative with that.

Mr. Healy stated the staff or Attorney General's Office could do an investigation and that information would not be public information. He would prefer there be a procedure which information could be given to the Commission under seal so it would not be public, but the questions of whether it is a political party, candidate, or committee could be answered.

Mr. Billings said the problem with that scenario would be keeping the information gained through an investigation out of the public record. He said there is an exception in the Freedom of Access Act that covers documents created or obtained in the course of a law enforcement investigation. But he did not believe that this case would evolve into a criminal investigation.

Mr. Healy asked Mr. Billings whether he felt his client had a constitutional right to remain anonymous if the material provided on the website is materially and seriously false.

Mr. Billings said if that is the case, Mr. Cutler could bring legal action through the court system.

Mr. Healy asked where the client's speech is constitutionally protected.

Mr. Billings said he/she is constitutionally protected when it is a governmental agency trying to establish an identity. It would be different in a private, civil action between two parties. He said he believes, as does the U. S. Supreme Court, his client or anyone else that speaks about political issues, has a right to speak anonymously.

Ms. Matheson asked Mr. Billings if he saw any distinction between a blog that promotes a political point of view along with encouraging other discussion and ideas versus a blog that just puts information up on a webpage.

Mr. Billings said he did not see any distinction. He said some blogs provide opportunity for discussion and some do not. He said that some blogs tend to come and go depending on the political issue that they are concerned with. He said some issues are active for a while and then fade away after the elections. He said this is a relatively new way for people to get their point of view out to the public.

Mr. Duchette asked how someone would draw the distinction between an advertisement and a blog.

Mr. Billings explained that if a distinction is to be made it should be based on the amount of money spent for the site and who controls the site. He said if it is a private citizen who is opposed to some candidate or some issue it would not fall within the Commission's jurisdiction. The Commission's purview is what amount of money is spent on an issue or campaign. If the owners of the site bought ads to drive people to the website, that could result in the expenditures that would bring the activity into the Commission's jurisdiction.

Richard Spencer, Esq., counsel for the Cutler campaign, said the so-called blog is a very carefully compiled political attack on Eliot Cutler. He said he believes it to be the creation of a professional political consultant. He said Maine law says express advocacy communications have to identify who is making the communication. He said this went up originally as express advocacy without any identification and it was in violation of the statute then. They have since changed a few items to make it appear not to advocate expressly, although he thinks it is still express advocacy. He said the site now violates the 35 day presumption period law because it clearly identifies a gubernatorial candidate. He stated the analogy Mr.

Billings makes to the Federal Election Commission law does not apply. He said this statute, § 1014, the Legislature specifically and directly worded regarding the disclaimer requirements which apply to a long list of entities, including publicly accessible sites on the internet.

Mr. Spencer stated this site is not a blog. He said the website address for the site is *Culterfiles* and the purpose of the site is a political attack ad on Eliot Cutler. He said he has been involved in Maine politics for some time and reading through this material, he strongly feels that the material was originally developed by a national opposition research firm hired by a primary election candidate regarding their opposing candidate to misrepresent that candidate's record. He suggested a cost of \$50,000 - \$100,000 worth of material invested in this site most likely by one of the primary campaigns in anticipation of running against Mr. Cutler in the general election. He said after spending this much money, this person decided to go ahead and use the negative material now. He said if this is true, the disclosure law has been violated before and after the presumption period began. He said Mr. Billings' legal arguments are refuted by the recent *Citizens United v. Federal Election Commission* in the U. S. Supreme Court. He said disclosure on materials that identify a candidate were addressed directly in this decision. He handed out the Court opinion (attached). He said the Court upheld the requirement that the identities of people making expenditures be disclosed. He said Mr. Billings relied on a 1995 case, *McIntyre*, upholding anonymous communications; however, Mr. Spencer explained that this case involved a ballot referendum question, not a candidate election. He said the eight-member majority of the Supreme Court upheld the requirement to disclose the identity of the person making an expenditure. He quoted from Justice Thomas' dissent, "Congress may not abridge the right to anonymous speech based on the simple interest in providing voters with additional information." Mr. Spencer said Justice Thomas also said in his dissent that the Court is not following the principle of *McIntyre* when applying the law to candidate elections. Justice Thomas' dissent clearly showed that the eight other Justices on the Court did not think that anonymous speech was protected in all instances. He said Mr. Billings' argument that *McIntyre* limited the ability to require disclosure is wrong and is contradicted by *Citizens United*. Mr. Spencer said the Federal Election Commission exception Mr. Billings referred to is not mentioned in Maine law and is not applicable.

Mr. Spencer said the Cutler campaign is simply requesting the Commission to follow Maine law. He said the Commission was successful in broadening the definition of express advocacy a few years back, with Mr. Billings' support. He said the regulations are clear. He said this is a website dedicated to the character

assassination of one person. He said someone spent a great deal of money with professional assistance to put this website together. He called it a political hatchet job and said the person or persons responsible need to step forward so that the public may evaluate their motive and interest in the Cutler campaign. He also urged the Commission to move forward on the investigation since the original complaint was sent to the Commission Office almost a month ago and too much time has already passed with the election just a month away.

Mr. Duchette asked, with regard to who is behind the website, whether a higher standard should be applied if the work was done by a professional even though that person decided to create the blog on his or her own and did not get paid.

Mr. Spencer said a higher standard should be applied if a significant amount of money were spent to create the material and he is very sure there was. He said at the penalty phase, especially, a professional should be held to a higher standard. He said a violation of the statute has been in effect for a month and the responsible party is refusing to abide by the law.

Mr. Healy asked with regard to Citizens United, if the First Amendment does not protect the anonymity of a person that creates a website or leaflet.

Mr. Spencer said Justice Thomas, in his dissent, said exactly that - the Court was refusing to apply *McIntyre* in the *Citizens United* case. However, the Court said if a group that can demonstrate it would be subject to harassment or retaliation if its identity became known and could prove that it had a legitimate interest in preserving its confidentiality, then the Court would review on a case-by-case basis. He said in that scenario the Court could allow confidentiality to outweigh the governmental interest in disclosure. Justice Thomas and Mr. Billings presented the same argument and that argument was rejected by the majority of the Court.

Mr. Healy asked Mr. Spencer whether Citizens United went as far as saying everyone should be required to disclose their identity on political communications.

Mr. Spencer said there is a media exception, and there are blogs that would fit into the exception. He said this website does not fall into that category. He said this is a website formed with no other purpose than to attack a candidate.

Mr. Billings, responding to Mr. Spencer's legal argument that § 1014 applies, explained that the first sentence in the disclosure statute starts with "*whenever a person makes an expenditure.*" You then have to look at the exception to an expenditure for media. If you interpret the media exception the same way the FEC does, there is no expenditure. He said there needs to be an expenditure in order for the law to apply. He also said the *Citizens United* case involved the Federal disclosure statute which is much more narrowly tailored than Maine law and involved broadcast ads in the period just prior to the election involving a great deal of money. He said that if the issue was a disclosure on a website involving a federal candidate, the federal disclosure statute would not apply under *Citizens United*. Maine's disclosure statute is very broad and applies to every, while the federal statute has a number of exceptions, including one for websites. *Citizens United* did not change the requirement that a law be narrowly tailored.

Mr. Duchette asked why the Commission should not investigate whether the expenditure is de minimus as well as do an investigation of the affiliation of the individuals responsible.

Mr. Billings said there was no evidence that supports more money was spent. Setting up a website is very inexpensive.

Mr. McKee said procedurally, the Commission has already authorized the staff to do an investigation and is being asked to reconsider that authorization.

Mr. Wayne said the Legislature has enacted statutes that have constitutional problems. He said he believed there have been circumstances where the Commission should decline to enforce a statute due to constitutional problems. Mr. Wayne reviewed a 2006 case regarding a candidate's use of endorsements from a previous election during the primary election and for which he did not get the endorser's authorization as required by the statute. He said the Law Court struck down the statute as an unconstitutional abridgement of free speech. He said the Commission was simply administering the statute

that the Legislature had enacted, but because it was found to be unconstitutional, the Commission had to pay attorney's fees for the plaintiff of approximately \$50,000.

Mr. McKee questioned whether the Commission should have to decide the constitutionality of the statutes it has to administer in every case.

Mr. Wayne said the staff often hears complaints from people about their First Amendment rights to speak being violated. From time to time, he said the Commission needs to evaluate those constitutional arguments when deciding how to administer the statute. He said he would recommend allowing the staff and counsel a limited amount of time to conduct the legal research necessary in order to give more consideration to the arguments presented by Mr. Billings and Mr. Spencer.

Ms. Gardiner agreed with Mr. Wayne and supported the need for the Commission to interpret and apply the statute consistent with the Constitution. The Commission does have some discretion in how it exercises its enforcement authority. She said she would appreciate the extra time and opportunity to analyze the arguments closely in order to come back with sound advice for the Commission. She said there may be a way, working with Mr. Billings, to gather some facts regarding the expenditures while preserving his client's anonymity.

Mr. McKee said in his view considering the language in the statute and the facts presented which no one has disputed, there is probable cause that there may be a violation in this case. He said a person made an expenditure for a communication which expressly advocates against a candidate on a publicly accessible website and is not authorized by the candidate. He said that he appreciated that there may be constitutional issues and suggested that the staff and counsel do the necessary research over the next two weeks.

Mr. Spencer expressed his concern over the time frame since there are only 35 days left before the election. They have already waited almost a month for a decision by the Commission. He questioned the need for another two weeks to go by before any result can be reached.

Mr. McKee said that he understood Mr. Spencer's concern. He said that he thought that it was everyone's goals to have the research done sooner rather than later. He said that everyone should work together to move the process along quickly.

Mr. Wayne suggested using the confidentiality provision in the investigation statute to gather facts in a confidential way. He cautioned the Commission that some people, especially the press, react negatively when agencies use this process.

Mr. Healy asked Ms. Gardiner as to whether further formal investigation would assist in the analysis of the constitutional issue. He agreed with Mr. McKee that, in light of the probable cause standard, the statute may have been violated but the constitutional issue needs to be taken very seriously.

Ms. Gardiner said the first issue that she would look into is an analysis of the de minimus argument based on the presumption that the facts presented by Mr. Billings are true, though they are contested by Mr. Spencer. She would not need to know the actual costs to analyze Mr. Billings' de minimis argument. She said that it would be efficient to do more factual investigation concurrently with the legal analysis so that the Commission has as much information as possible when deciding this matter.

Mr. McKee said he would support continuing with the factual investigation in a confidential manner.

Agenda Item #7. Ratification of Minutes of the August 26, 2010 Meeting

Mr. Duchette moved to adopt the minutes as written. Mr. Healy seconded.

Motion passed unanimously (5-0).

Other Business

Request by Brant Miller for Investigation of Androscoggin County Republican Committee

Mr. Wayne explained that Mr. Brant Miller, Republican nominee for House of Representatives in Bowdoinham, running against the Democratic incumbent, Seth Berry, objected to some of the content of an e-mail which Mr. Miller did not authorize even though the e-mail stated he did authorize it. Mr. Wayne said there was no legal violation in this matter and advised the Commission to deny the request for an investigation.

Mr. Healy asked if it was a violation to falsely state that a candidate did authorize something.

Mr. Wayne said if the communication was required to have the statement and the statement was false, that would be a violation; however, if the statement was not required but was put on the communication anyway and was false, it would not be a violation.

Mr. Duchette moved that the Commission deny the request for investigation. Mr. McKee seconded.

Motion passed (4-1). Ms. Matheson opposed.

Request to Investigate Possible Unregistered Push Poll

Mr. Wayne explained that the Maine Democratic Party (MDP) has requested that the Commission investigate whether a poll that involved live callers asking Maine residents questions that included negative statements regarding Democratic candidates for the State Senate constitutes an unregistered push poll.

Daniel Walker, Esq., counsel for the Maine Democratic Party, said this matter arose after receiving reports that calls were made from an organization in Utah to Maine voters that gave false information regarding specific candidates. He said push polling requires registration and there have been no registrations filed at this time. He said the callers gave untrue information regarding these candidates to persuade voters to vote a certain way.

Mr. Healy asked if there had been any investigating of Target Points Consultants by the Maine Democratic Party or any contact made to the organization.

Mr. Walker said the only research done was to conduct an internet search for the organization; no other research or contact with the organization had been made.

Mr. Billings said the MDP had filed an earlier complaint concerning polls the Senate Republican Committee had done and as a result of meeting with the Commission staff and the parties, the complaint

was withdrawn. He said he has received reports of these calls as well and stated for the record the Senate Republican Committee had no involvement in these calls.

Mr. McKee said this matter appears to meet the probable cause standard.

Mr. Youngblood said it appears that there is incorrect information being passed around. He said those who are inclined to do push polls need to know they need to register.

Mr. Youngblood moved that the Commission grant the request for investigation. Mr. McKee seconded.

Motion passed (4-1). Mr. Duchette abstained.

Ms. Matheson moved to adjourn and Mr. Youngblood seconded. Meeting adjourned at 11:30 a.m.

Respectfully submitted,

Jonathan Wayne, Executive Director